

Date: 2022-03-07

Subject: **Delegation of Authority for Restricted Acts Under Section 275 of the Municipal Act, 2001**

Contact: **Peter Fay, City Clerk, City Clerk's Office, Legislative Services**

Report Number: Legislative Services-2022-275

Recommendations:

1. That the report re: **Delegation of Authority for Restricted Acts Under Section 275 of the Municipal Act, 2001**, to the Committee of Council Meeting of April 13, 2022, be received; and
2. That the Chief Administrative Officer be delegated the authority, for those restricted matters set out in Section 275(3)(c) and (d) of the *Municipal Act, 2001*, to approve all expenditures and execute any contracts, including those related to the disposition or acquisition of real property, during the period from Council's last scheduled meeting before or after Nomination Day (August 19, 2022) in 2022, until the end of the term of Council (November 14, 2022); and
3. The Chief Administrative Officer report to Council in the first quarter of 2023 regarding any exercise of this delegated authority.

Overview:

- In the year of a municipal election, it has been the practice of the Council of the Corporation of the City of Brampton to delegate authority for defined "Restricted Acts" not authorized for Council decision-making if the Council is in a "lame duck" situation after Nomination Day (August 19, 2022) and/or after Voting Day (October 24, 2022).
- This report explains the "lame duck" scenarios, describes current general delegated authorities that may address some aspects of the "Restricted Acts" and recommends that delegation of authority of such matters be made to the Chief Administrative Officer, should such circumstances exist and restricted act decisions be necessary.

Background:

In the year of a municipal election, it has been the practice of the Council of the Corporation of the City of Brampton to delegate authority for defined “Restricted Acts” not authorized for Council decision-making if the Council is in a “lame duck” situation after Nomination Day (August 19, 2022) and/or after Voting Day (October 24, 2022).

Resolutions to that effect were passed prior to the previous municipal elections. This report addresses possible 2022 “lame duck” circumstances and recommends a delegation remedy for the Corporation, such it be required.

Current Situation:

Depending on the number of Members of Council who are candidates after Nomination Day (August 19, 2022) or may be re-elected after Voting Day (October 24, 2022), this period has been referred to as the “lame duck” period pursuant to Section 275 of the *Municipal Act, 2001*.

Between the close of nominations (August 19, 2022) and the start of the new term of Council (November 15, 2022), certain acts of Council will be restricted if the following occurs:

- a) as of Nomination Day (August 19, 2022) fewer than 9 Member incumbents are nominated; or
- b) as of Election Day (October 24, 2022) fewer than 9 Member incumbents are reelected.

If either of the foregoing situations occur, Council will be restricted from taking the following actions (“Restricted Acts”) pursuant to Section 275 of the *Municipal Act, 2001*:

- a) appointment or removal from office of any officer of the municipality;
- b) hiring or dismissal of any employee of the municipality;
- c) the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal (unless part of approved 2022 budget); and
- d) making any expenditures or incurring any other liability which exceeds \$50,000 (unless part of approved 2022 budget)

These “Restricted Acts” provisions do not apply in the case of an emergency.

Council previously delegated authority to staff, through the Delegation of Authority By-law 191-2011, as amended, in the following circumstances where Section 275 of the *Municipal Act, 2001* applies:

- the Chief Administrative Officer and/or Head of the applicable Department is authorized to hire or dismiss any employee in accordance with the City's existing practice and policy (Section 3.1 of former By-law 191-2011)
- the Chief Administrative Officer and/or Head of the applicable Department is delegated the authority to undertake such actions as may be required where such actions are in accordance with existing current practice and policy except where, by statute, a resolution or by-law of council is required. (Section 3.2 of former Bylaw 191-2011)

In October 2017, Council adopted an Administrative Authority By-law (By-law 216-2017) and repealed Delegation of Authority By-law 191-2011, as amended, to clarify various delegations for the proper, consistent and effective operation of the Corporation.

The Administrative Authority By-law sets out more comprehensively the general and specific administrative authorities for designated positions within the Corporation. The by-law does reference the Section 275 “Restricted Acts” provisions of the *Municipal Act, 2001*, as well as the general authority of the Chief Administrative Officer (Section 229) to allow for the execution of documents related to the general control and management of the affairs of the City. The exercise of this power is limited to a value involving \$1M or less.

In addition, there are a few specific delegated authorities contained within By-law 216-2017, referencing the “Restrict Acts” provision of the Section 275 of the *Municipal Act, 2001*:

#	Delegation	Delegate	Limitation
34	Execute extension agreements extending the period of time in which the cancellation price is to be paid in municipal tax sales proceedings	Treasurer, Supervisor, Tax Policy and Assessment	Subject to period of Restricted Acts
94	Consent to or refuse applications to repeal designating by-laws, applications to erect, alter or demolish buildings or structure on properties designated in Parts IV and V of the Ontario Heritage Act, R.S.O. 1990, c.O.18 and to give notice of intention to designate such properties, upon consultation with the City's Heritage Committee	Commissioner, Community Services	Applicable only during the Restricted Acts period

The Administrative Authority by-law will not cover all possible “Restricted Acts” that may arise if Council is in a “lame duck” situation. In order to prevent any disruption to ongoing City operations after Nomination Day when there are fewer scheduled meetings of City Council, it is recommended that Council pass a resolution to delegate authority during the “Restricted Acts” period to the Chief Administrative Officer.

It is recommended that the Chief Administrative Officer be delegated the authority, for those restricted matters set out in Section 275(3)(c) and (d) of the *Municipal Act, 2001*, to approve all expenditures and execute any contracts, including those related to the disposition or acquisition of real property, during the period from Council's last

scheduled meeting before or after Nomination Day (August 19, 2022) in 2022 until the end of the term of Council (November 14, 2022).

It is also recommended that the Chief Administrative Officer report to Council in the first quarter of 2023 regarding any exercise of this delegated authority.

Corporate Implications:

Financial Implications:

The "lame duck" limitations placed on a Council after Nomination Day, as set out in the *Municipal Act, 2001*, include restrictions on certain hiring and spending actions of Council. The report recommendations address these restrictions to enable the operations of the Corporation to continue if such "Restricted Acts" are in effect.

Other Implications: - n/a

Term of Council Priorities:

This report achieves the term of Council priority of a Well-Run City by ensuring proper authorities are in place to continue necessary Corporate operations after Nomination Day and before the new term of Council takes office.

Conclusion:

This report recommends that the authority for defined "Restricted Acts" as set out in Section 275 of the *Municipal Act, 2001*, be delegated to the Chief Administrative Officer, should the "lame duck" circumstances set out in the Act be realized after Nomination Day or after Voting Day in 2022. A report will be presented to the new City Council, before the end of the first quarter of 2023, advising of any actions exercised under this delegated authority.

Authored by:

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Attachments: *nil*